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SENSITIVE

G/TIP FOR JENNIFER TOPPING  
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SUBJECT: POLAND: FIFTH ANNUAL (2005) TRAFFICKING IN  
PERSONS REPORT SUBMISSION

REF: A) 04 STATE 273089 B) 04 STATE 248963

1. (SBU) Following are responses keyed to questions in paragraphs 18-21 of REFTEL A. Embassy point of contact is POLOFF Tom Yeager (telephone: 48-22-504-2676, fax 48-22-504-2613, e-mail yeagerta@state.gov). POLOFF (FP-04) spent 65 hours collecting data and compiling report; Two POLFSNs spent a total of 25 hours collecting data.

2. (SBU) OVERVIEW: Answers keyed to para 18 of REFTEL A

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18A. Poland is a country of origin, transit and destination for trafficking in persons. The main groups at risk are women and girls, with unemployed women, women from the poorest regions of Poland, and victims of domestic violence most at risk. Some trafficking occurs within Poland's borders, but most cases involve women and children being trafficked to, from, or through Poland. The illicit nature of trafficking in persons makes it difficult to determine the number of victims, particularly those of Polish citizens, and estimates vary substantially. The NGO La Strada believes that 15,000 foreign women transit into or through Poland to work in the sex industry (voluntarily or involuntarily), and Polish officials do not dispute these estimates. The main sources of information for information and statistics contained in this cable are international and local non-governmental organizations (NGOs), UN officials, OSCE/ODIHR contacts, Polish officials including those in the Ministry of Interior Affairs and Administration, Ministry of Justice, Border Guards and National Police. All of these have proven to be reliable sources.

18B. Persons are trafficked to and through Poland from countries to the east and southeast, primarily Ukraine, Bulgaria, Romania, Belarus and Moldova. Ukraine continues to serve as the source of the greatest number of persons trafficked through Poland. Russia is no longer a significant source of victims. Poles are trafficked to Western Europe including Germany, Italy, Belgium, France, and the Netherlands, as well as to Japan and Israel. Police statistics based on arrests and other direct contacts indicate that about 30 percent of the 7,300 prostitutes known to be working in Poland are of foreign origin. Press reports have estimated the number of foreign prostitutes at over 5,000, and Post believes these reports may be closer to the actual number than the police data.

18C. During the past year, as a result of EU accession and general economic improvement, there have been noticeable changes in the direction and extent of trafficking in Poland. Whereas previously, virtually all of the activity involved women trafficked into the sex trade, there is now a small but growing percentage of victims forced to work in agricultural or other menial trades. NGOs also report that the number of Polish women trafficked to other countries appears to be decreasing, but there is no hard data to support this point.

18D. The Main National Police Headquarters now receives data from provincial office twice yearly to attempt to document accurately the extent and nature of trafficking in Poland. The reliability of this data is not known. The National Prosecutor's office maintains statistics on investigations and prosecutions related to trafficking, and works closely with provincial and local prosecutors to ensure accurate reporting. In addition, a La Strada intern works with the Polish government to document cases.

18E. Victims are trafficked to Poland primarily for work in "massage parlors" and "escort agencies," i.e., brothels. However, there have also been documented cases of victims forced to work in agriculture, in sweatshops and forced to beg on the streets. Victims

in the sex trade are forced to work as nude dancers or prostitutes, and are often deprived of their passports and identity papers, and threatened with violence. In the case of forced prostitution, victims failing to service a minimum number of clients each day may suffer physical abuse. Police estimate 750 "escort agencies" operate in Poland, with 3,500 to 3,600 women working in them. Press sources, meanwhile, put the number of women working in all elements of the sex industry in Poland at anywhere from 18,000 to 20,000.

18F. Traffickers in Poland target young, unemployed or poorly paid Polish women. In addition, they focus on women with poor family ties and weak support networks. According to the NGO La Strada, 80 percent of Polish victims are under 24 years of age. Traffickers approach young victims with promises of lucrative jobs in Western Europe as domestic workers, dancers, cooks, or waitresses. The victims are told that their handlers will take care of all documentation and are asked to turn over their passports. While some of the victims may know they are involved in an illegal employment ploy, many do not realize that they will be performing forced sexual services. A second method of recruitment is for a trafficker, usually residing permanently outside Poland, to feign emotional involvement and persuade his future victim to visit him abroad. In both cases, victims are subsequently detained and forced into prostitution through threat, blackmail or violence. Often, traffickers are connected with organized crime syndicates. If a victim is transported with documentation, they travel by train or car; if illegally, they are hidden in trucks, cars, or walking across unguarded borders.

18G. Polish government officials at the highest levels are aware of the seriousness of the trafficking problem in Poland, and are taking action to address the problem. TIP was one of the issues discussed by Interior Minister Kalisz and U.S. Attorney General Ashcroft at their meeting in Warsaw in December 2003. In August 2003, a National Action Plan was adopted by high-level representatives of 12 government agencies, academics and NGOs (including the Ministries of Interior and Administration, Foreign Affairs, Education and Justice; Border Guards and National Police; NGOs La Strada and "Nobody's Children" and the University of Zielona Gora). The National Program is a strategy document that seeks to coordinate the efforts of various GOP and private sector entities involved in combating trafficking. The Prime Minister approved the Program in December 2003, and permanent representatives were appointed in March 2004. A National Action Plan for 2005 is pending (see Para 19H). Personnel in the National Police Headquarters have been active in outreach to local police, and provided guidance to all Polish police units on the required treatment for trafficking victims. However, agencies are expected to fund anti-trafficking initiatives from their own budgets. A reported weakness in National Action Plan coordination is reluctance by some government officials to fully include NGOs and other "outside" experts in planning meetings.

18H. There is no evidence that governmental authorities condone or are otherwise complicit in trafficking activities. GOP law-enforcement agencies are actively increasing their capacity to detect and apprehend criminal groups involved in trafficking. There are unconfirmed reports that local police have taken bribes to ignore known trafficking activity. If any such cases were determined to have merit, rules call for the offender to be automatically suspended pending an investigation. To date, there have been no cases of law-enforcement officials punished for trafficking-related corruption.

18I. There are no limitations on Poland's law-enforcement activities, but government efforts on education and victim assistance have been primarily carried out through NGOs using foreign government funding. According to the coordinator of the National Police's anti-TIP section, approximately 100 officers were trained in identification of trafficking and victim assistance in 2004 through internal training classes. All incoming National Police are reported to receive basic instruction on the subject. More advanced training programs and victim assistance efforts conducted by foreign governments or NGOs are welcomed by GOP officials. Societal factors may play a role in the GOP's anti-trafficking program. Although a CBOS survey indicates that awareness has risen substantially over the past several years, many average Poles still view victims of trafficking as being responsible for their own fate.

18J. At this time, there is no overarching document, which monitors Polish anti-trafficking efforts. The National Police Public Affairs Unit informs the public systematically about their efforts. The National Prosecutor's Office of the Ministry of Justice maintains records of investigations and legal actions taken against traffickers.

18K. Prostitution in Poland is legal; but "pimping" or otherwise profiting from a prostitute's activities is illegal. Under the current version of the Polish Criminal Code, the legal age of consent to sexual activity is 15. However, Poland has ratified the Palermo Protocol, the Optional Protocol to the UN Convention on the rights of Children (of May 25, 2000), and the EU Convention on the Rights of Children. All of these documents prohibit prostitution by individuals less than 18 years of age. In the opinion of the National Prosecutor's office, according to the Polish Constitution (Art. 87) and international law, the provisions of these documents automatically become part of Polish law and act to prohibit child prostitution as therein defined. Full implementation of the protocols and Convention will require changes, inter alia, in the Polish Criminal, Family and Labor Codes. The prosecutor's office additionally states that anyone (including a parent) assisting a person under the age of 18 to engage in prostitution would be assumed to be benefiting financially from this assistance and would be investigated and prosecuted accordingly.

13. (SBU) PREVENTION: Answers keyed to Para 19 of REFTEL A

19A. The GOP acknowledges that trafficking in persons is a serious problem and that it occurs in Poland. Law-enforcement officials have been active in educating local officials about the problem.

19B. Responsibility for domestic anti-trafficking efforts lies primarily with the Ministries of Interior and Administration and Justice; the Ministry of Foreign Affairs is engaged on a bilateral and multilateral level. The Plenipotentiary for Equal Rights for Women and Men, who functions as an adjunct to the Prime Minister's office, is also involved in anti-trafficking programs. In all, eleven Polish government agencies are actively involved in carrying out the National Program against trafficking.

19C. The government has relied heavily on training programs organized by NGOs or the University of Warsaw TIP project to train law-enforcement personnel and counter trafficking. This training has largely been financed by U.S. Government grants approved by G/TIP under the FY-2002 INCLE funding plan. Grants have been fully implemented and no further U.S. Government funding for these or similar projects is anticipated. The government relies on NGOs to carry out informational and education campaigns targeted at potential victims.

19D. The Ministry of Education supports programs aimed at lowering the teenage dropout rate, including holding parents responsible and assessing fines in cases of truancy. Other GOP programs that indirectly help prevent trafficking include public awareness campaigns against domestic violence and child abuse as well as job training programs for unemployed women.

19E. Resource constraints limit the government's ability to support prevention programs. Government officials frequently attend training and seminars sponsored by other entities. La Strada received approximately US\$4000 from the Polish government in 2004 to carry out prevention programs. [POST NOTE: Last year's tip report indicated La Strada received US\$3000 from the GOP in 2003. The \$4000 received in 2004 equates to 12,000 PLN, the same amount received in 2003, and does not represent an increase in funding]

19F. The GOP recognizes the importance of NGOs and other elements of civil society in preventing trafficking in persons, and actively worked with them in the development of its National Program. The GOP relies on -- and works closely with -- NGOs for victim protection projects, law-enforcement training, and prevention campaigns. The relationship between the GOP and anti-trafficking organizations is described as open and positive by both government officials and NGO representatives. However, the degree of involvement with NGOs is sometimes inconsistent, with the Ministry of Health and Ministry of Internal Affairs and Administration (MSWiA) occasionally characterized as less open to cooperation and input than "front-line"

agencies such as the National Police, Border Guards (which operate semi-independently, but within the structure of the MSWiA) and Ministry of Justice.

19G. The GOP devotes considerable resources to monitoring its borders. The Border Guards receive high marks for the quality of their training and effectiveness of their enforcement activities from Western European counterparts. Thanks to training programs implemented by La Strada, Polish border guards are now trained to detect and assist victims of trafficking. The Border Guard discovers potential TIP victims most often during inspections that they hold to check the legality of aliens' stays in Poland. These checks are essentially documentary in nature.

19H. In August 2003, a coordinated National Program for Combating Trafficking was accepted by all GOP agencies involved in anti-trafficking efforts, as described in 18G. In December 2003, the plan was adopted by the Prime Minister, and a Board of Directors to implement the plan was named in spring 2004. A new National Action Plan for 2005 was recently approved by an interagency anti-trafficking working group, but still requires ministerial approval. The 2005 plan reportedly includes special provisions regarding children and, significantly, a requirement for specific financial support of TIP programs within ministries' and agencies' annual budgets. There is also an active National Anti-Corruption Strategy, managed by the Ministry of the Interior and Administration.

19I. Polish officials participate actively in international trafficking conferences. In April 2004, Poland was an initial sponsor of a resolution creating a U.N. Special Rapporteur on Trafficking in the Commission on Human Rights. A Ministry of Justice expert, Krzysztof Karsznicki, sits on the European Commission's group of 20 experts on Trafficking. Mr. Karsznicki developed special guidelines for the police on the implementation of Palermo Protocol definitions in practice, which the NGO La Strada referred to as a "breakthrough" in investigation of prosecution of traffickers. The Polish National Police (PNP) participate in several bilateral task forces that seek to share information, track the movements of traffickers and victims across borders and coordinate repatriations and casework. Bilateral efforts include Polish task forces with the Czech, German, and Swedish Police forces, and one multilateral task force exists to coordinate efforts between Polish and Baltic-nation Police forces on anti-TIP efforts. The GOP participated in a joint Polish-Czech program sponsored by the United Nations, but sources indicate this initiative was not well-coordinated and that certain of Poland's obligations regarding administrative and logistics support for the project coordinator were not fulfilled.

19J. See Paragraphs 18G and 19H.

19K. Mr. Piotr Mierecki, Director of the Department for European Integration and International Cooperation in the Ministry of the Interior and Administration, together with his staff, is responsible for coordinating the activities of the inter-agency working group.

14. (SBU) INVESTIGATION AND PROSECUTION OF TRAFFICKERS:  
Answers keyed to Para 20 of REFTEL A

20A. Polish law prohibits forcing individuals into prostitution, trafficking in human beings, and pimping. The relevant sections of the Criminal Code are Articles 204 (sexual trafficking) and 253 (non-sexual trafficking) effective since September 1, 1998. The laws cover both internal and external trafficking, and do not require proof that the victim was coerced in order to secure a conviction. Poland has adopted the UN Protocol on Trafficking in Persons (Palermo Protocol). Plans to add the Protocol's definition of trafficking to the Polish penal code in 2004 were not implemented. However, the National Prosecutor's Office uses the Protocol's definition of trafficking in its prosecutions and indicates it has not been adversely affected by the absence of a specific definition in Polish national law.

20B. The maximum penalty for trafficking in persons is up to 15 years' imprisonment under Article 253 of the Criminal Code (minimum of 3 years' imprisonment). This Article of the Code does not require proof of trafficking connected with prostitution. Article 204, section 4 of the Code provides for up to 10 years' imprisonment for trafficking involving prostitution. Most sentences are shorter, with the most severe

sentences reserved for those convicted of trafficking minors for the purpose of prostitution or luring/abducting adults into prostitution abroad.

20C. According to Criminal Code Article 197, using violence, threat, or deceit to force a person to have sexual intercourse is punishable by one to 10 years' imprisonment. Using such means to force a person into other sexual activity is punishable by three months' to five years' imprisonment. In cases involving more than one perpetrator or excessive cruelty, the punishment ranges from two to 12 years imprisonment, compared to up to 15 years for trafficking under Article 253. Polish prosecutors have expressed interest in using the multiple perpetrator/excessive cruelty provision of the law to sentence traffickers to longer sentences, although this has not been tested in court.

20D. According to the National Prosecutor's Office in the Ministry of Justice, in 2004 Polish authorities arrested 39 persons on trafficking charges, compared to 134 in 2003. However, that office points out that arrest statistics vary substantially from year to year, and that, the number of arrests in 2003 was unusually large (three times more than the prior year). Of the 39 persons arrested, 18 were prosecuted - a prosecution rate of 46 percent, compared to 22 percent (30 of 134) in 2003. Of those arrested, 30 were Polish citizens, 5 Bulgarians, 1 German, 1 Turkish, 1 Rumanian and 3 Vietnamese. In all, 25 trafficking cases were completed in 2004, versus 45 in 2003. The most infamous trafficking case of 2004 occurred in Rzeszow in eastern Poland, where a woman of Ukrainian origin, described in the Polish press as a "babcia" (grandmother), solicited young women from her home region of Lwow in Ukraine who were subsequently sold into prostitution in other countries.

20E. Polish police believe that large organized crime groups as well as individual operators control the trafficking business and that victims are frequently trafficked by nationals of their own country, with Polish traffickers collecting a percentage to allow passage into or through Poland. According to arrest statistics, approximately 25 percent of traffickers are non-Poles. Bulgarian traffickers continue to account for a significant number of cases. Except for anecdotal evidence from NGOs that some corrupt police officers are complicit in trafficking, Post has received no information or indication that Polish government officials are involved in trafficking. Police sources believe that employment and talent agencies are sometimes used as fronts for trafficking operations.

20F. The GOP actively investigates trafficking. Advanced law-enforcement techniques, including immunity/mitigation, covert operations, etc., are used mainly by the Central Bureau of Investigation (CBI-Poland's FBI equivalent), but the CBI is not typically involved in the investigation of trafficking cases. Prosecutors' ability to protect other witnesses in trafficking cases is generally limited to withholding of personal data from court records. Although victims' depositions may be used in Polish criminal cases even where defense counsel have not had the opportunity to be present or cross-examine witnesses, the Prosecutor's office indicates that it is likely that any defendant's appeal of a conviction based on such evidence to the European Court of Human Rights would be successful. Polish Border Guards also have the ability to use advanced law-enforcement techniques but find a shortage of resources limiting their effectiveness in investigating TIP (which is not their primary function). According to the NGO La Strada, Polish authorities lack sufficient resources to investigate and prosecute the majority of trafficking cases originating in Poland. In the past, they prosecuted cases that involved persons deported from Germany, but increasingly, cases now involve traffickers apprehended in Poland.

20G. Incoming border guards and police officers now receive some training on the subject of trafficking. Specialized training led by La Strada is conducted at the national law-enforcement training facility for selected personnel. This training involves role-play simulations, legal exercises, film showings, and other awareness-building exercises. Prosecutors throughout Poland have also taken part in training, including courtroom simulations with volunteer judges.

20H. Poland cooperates enthusiastically with other countries in trafficking cases and the repatriation of victims, especially with its closest neighbors. The main barrier to increased multinational investigations

is a lack of funds. There has been no OSCE funding for victim assistance and repatriation since 2002, and there is no prospect for EU funding of anti-trafficking programs. U.S. grants under the SEED program were concluded in 2004.

20I. The Polish constitution prohibits extradition of Polish citizens. However, since Poland's entry to the EU, citizens may be removed to other EU countries under a "European Arrest Warrant," despite the constitutional bar.

20J. Although the GOP is generally not tolerant of trafficking, there continue to be some credible accusations of lax attitudes among some officials and abuses, including sexual harassment, by individual police officers. This may be attributed to corruption and/or a lack of awareness among rank-and-file officers of the true nature of trafficking and the predicament of victims.

20K. While post has received anecdotal evidence of corruption and complicity among some police officials, Post knows of no specific cases of trafficking involving government officials. The internal control office of the PNP actively disciplines and prosecutes police officers for corruption, but post knows of no prosecutions of corrupt police officers or other government officials for trafficking.

20L. There is no indication that Poland has any child sex tourism problem.

20M. The GOP ratified the ILO Convention 182 on August 9, 2002, and Conventions 29 and 105 (forced labor) on July 30, 1958. The Optional Protocol to the Convention on the Rights of the Child (CRC) was signed on February 13, 2002. The UN Trafficking Protocol (Palermo Protocol) was signed by the Government of Poland on December 12, 2000, and ratified on September 26, 2003. On September 10, 2004, the Polish Sejm passed a bill ratifying the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography (of May 25, 2000). The ratification bill was signed by the President on December 31, 2004, and will enter into force one month after the ratifying document is submitted to the UN Secretary General.

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15. (SBU) PROTECTION AND ASSISTANCE TO VICTIMS: Answers keyed to Para 21 of REFTEL A

21A. Polish law allows foreign victims to remain in Poland legally during the investigation and trial of their traffickers; a total of eight foreign victims remained in Poland during 2004 under this law (two under police protection and six under the care of La Strada). Additional legislation has been enacted to allow for videoconference testimony from abroad. The lack of government financial support for victims remains a barrier to full implementation of this law (note: many Polish NGOs have set up shelters to fill this need for victims as they await trial). Polish victims are eligible for various welfare services; however, the Polish government has not funded shelters or medical care for trafficking victims to this point.

21B. The GOP has typically awarded grants to La Strada to support victims, with the Office of Victims' Rights and the Office for Women and Family Issues providing the grants; in 2004, La Strada received approximately \$4000 through this Office. Several universities are operating victims' assistance programs, which are indirectly funded by the GOP. The Center for Women's Rights and shelters operated by Caritas and other Catholic organizations receive funding from local governments. The City of Warsaw has budgeted US\$18,000 in 2005 to fund a crisis intervention center operated by La Strada, the first such contribution of its kind by Warsaw's government. The national government also provides funds to address AIDS prevention and domestic violence.

21C. La Strada and Caritas Polska both indicate that they are pleased with the degree of cooperation between Polish law-enforcement and victim assistance organizations. When identified, victims are typically referred to the nearest assistance point in Poland.

21D. Border guards and police sometimes regard victims of trafficking as criminals who have violated passport laws. However, according to government and NGO sources, increased training has markedly improved this



situation, and most rank-and-file officers now understand the difference between smuggling and trafficking. Polish law continues to require that anyone found within the territory of Poland in an "illegal" status be deported to the country of origin. Article 316, section 3 of the Criminal Code provides an exception to this general requirement permitting victims to stay in Poland during the course of a prosecutor's investigation, but requires a specific request by the prosecutor and a judge's authorization. As a result, some victims continue to be deported as soon as possible, removing the opportunity for cooperation with law-enforcement officials. Currently pending legislation provides for a "reflection period" of two months during which a trafficking victim would be permitted to remain in Poland, receive support and assistance, and decide whether to cooperate in an investigation. Victims who decide not to cooperate would be returned to their countries of origin, but in such a way as to attempt to shield them from contact with traffickers.

21E. The Polish government encourages and facilitates victim participation in investigations and prosecutions. As indicated above, victims, regardless of their legal status, may now remain in country to assist in the investigations of traffickers. This legal authority was used successfully in eight cases in 2004 (vice 3 in 2003). Polish authorities have not encouraged victims to file civil suits or otherwise take legal action against traffickers. Increasingly, NGOs are working to enhance victims' access to legal service and inform them of their rights. Post knows of no victim restitution program other than repatriation of foreign victims.

21F. Two victims received direct police protection during 2004 (vice three in 2003). The government provides no direct victim assistance other than detention centers for victims (and other illegal immigrants) awaiting deportation; however, several NGOs throughout Poland are active in operating shelters and support programs for victims.

21G. Through a cooperative arrangement between the Polish Ministries of Interior and Administration and Foreign Affairs, extensive formal training for consular officials in Polish embassies and consulates abroad is regularly conducted. GOP officials encourage their embassies to develop relationships with anti-trafficking organizations in transit and source countries.

21H. While there is no specific government assistance set aside for repatriated nationals who are victims of trafficking abroad, such persons are eligible for standard unemployment and welfare benefits, and the Ministry of Foreign Affairs cooperates with NGOs to identify repatriated Polish victims of trafficking for assistance. NGOs allow repatriated victims to participate in assistance programs and utilize shelters following their return to Poland.

21I. Numerous international, national, and local organizations are involved in anti-trafficking initiatives in Poland, and the NGO community remains at the forefront of Poland's anti-trafficking efforts. International organizations such as the United Nations Office on Drugs and Crime, UNHCR, International Organization on Migration, and OSCE are closely involved in anti-trafficking initiatives in Poland. NGOs active in the fight against trafficking include, La Strada, CARITAS, Temida Association of Lawyers, Barka Foundation for Mutual Assistance, and the Center for Women's Rights. Prestigious academic institutions such as the Jagiellonian University of Krakow, University of Zielona Gora, and the University of Warsaw are also involved in anti-trafficking education and policy-making. These institutions work closely with local authorities, and the relationship between NGOs and the national government is, by all accounts, excellent. NGO training and projects continue to be the most effective method to enhance Poland's overall anti-trafficking capacity.

16. (SBU) POST COMMENT: The government of Poland fully complies with the minimum standards for elimination of trafficking and has demonstrated a political commitment to improving its anti-TIP programs and cooperation among agencies, NGOs, international organizations and other parties of interest. It has fulfilled the majority of the goals established in the Department's TIP Strategy for Poland (REFTEL B), including increased training for police, prosecutors and other front-line personnel; continued (and increased) cooperation with neighboring states to combat traffickers; continued

anti-corruption training programs; tangible movement toward adoption of new laws permitting trafficking victims to remain legally in Poland to assist in investigations and prosecutions; continued positive development of the National Action Plan and National Working Group; and creative, effective strategies designed to incorporate international and EU definitions related to trafficking and minors into the Polish legal framework, even where legislation has not yet been enacted to conform Polish criminal and civil law. The most significant remaining challenge is to provide adequate financial support for anti-TIP programs and to increase levels of assistance for victims and supporting NGOs. Statistics pertaining to investigations, arrests and prosecutions, while showing a decrease in total cases from last year, tend to indicate an improved quality of investigations (i.e., a higher percentage of investigations resulting in indictments and prosecutions). Based on Poland's continued progress and commitment to combating trafficking, Post strongly supports the continued inclusion of Poland in Tier I.

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